

Nuclear Regulatory Commission

§4.336

any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(e) NRC will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if—

(1) From the time NRC receives the complaint 60 days elapse; or

(2) Prior to the end of that 60-day period, the mediator determines an agreement is reached; or

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to NRC.

§4.334 Investigation.

(a) *Informal investigation.* (1) NRC will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, NRC will use informal fact-finding methods, including joint or separate discussions with the complaint and recipient to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. NRC may seek the assistance of any involved State agency.

(3) NRC will put any agreement in writing and have it signed by the parties and an authorized official at NRC.

(4) The settlement shall not affect the operation of any other enforcement effort of NRC, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) Settlement of a complaint under this section will not constitute a finding of discrimination by the NRC against a recipient or an admission of discrimination by the recipient.

(b) *Formal investigation.* If NRC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, NRC will attempt to obtain voluntary compliance. If NRC cannot obtain voluntary compliance, it

will begin enforcement as described in §4.336.

[52 FR 25358, July 7, 1987, as amended at 68 FR 51345, Aug. 26, 2003]

§4.335 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who—

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of NRC's investigation, conciliation, and enforcement process.

§4.336 Compliance procedure.

(a) NRC may enforce the Act and these regulations through—

(1) Termination of a recipient's Federal financial assistance from NRC under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases that are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from NRC.

(2) Any other means authorized by law including but not limited to—

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipients created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) NRC will limit any termination under §4.336(a)(1) to the particular recipient and particular program or activity NRC finds in violation of Act or these regulations. NRC will not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from NRC.

(c) NRC will take no action under paragraph (a) until—